International Seabed Authority ISBA/20/C/7

# Council

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## Report and recommendations to the Council of the International Seabed Authority relating to an application for the approval of a plan of work for exploration by Ocean Mineral Singapore Pte Ltd

## I. Introduction

1. On 19 April 2013, the Secretary-General of the International Seabed Authority received an application for the approval of a plan of work for exploration for polymetallic nodules in a reserved area. The application was submitted pursuant to the Regulations on prospecting and exploration for polymetallic nodules in the Area (ISBA/6/A/18, annex, "the Regulations") by Ocean Mineral Singapore Pte Ltd. (OMS). The reserved area within the application was contributed by UK Seabed Resources Ltd. (UKSRL) pursuant to annex III, article 8, of the 1982 United Nations Convention on the Law of the Sea (the Convention).

2. On 24 April 2013, in accordance with regulation 20 (c) of the Regulations, the Secretary-General issued a note verbale by which he notified the members of the Authority of the receipt of the application and circulated general information concerning it. The Secretary-General also placed consideration of the application as an item on the agenda of the meeting of the Legal and Technical Commission held from 8 to 15 July 2013.

## II. Methodology for consideration of the application by the Legal and Technical Commission

### A. General methodology applied by the Commission in consideration of the application

3. In its consideration of the application, the Commission noted that, in keeping with the scheme established in article 6 of annex III to the Convention, it was first required to make an objective determination as to whether the applicant had fulfilled the requirements contained in the Regulations, particularly with respect to the form

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of applications; whether the applicant had provided the necessary undertakings and assurances specified in regulation 14 of the Regulations; and whether it had the necessary financial and technical capability to carry out the proposed plan of work for exploration and, as appropriate, had satisfactorily discharged its obligations under any previous contract with the Authority. The Commission is then required to determine, in accordance with regulation 21, paragraph 4, of the Regulations and its procedures, whether the proposed plan of work will provide for effective protection of human health and safety, effective protection and preservation of the marine environment, and will ensure that installations are not established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity. Regulation 21, paragraph 5, of the Regulations goes on to provide that "If the Commission makes the determinations specified in paragraph 3 and determines that the proposed plan of work for exploration meets the requirements of paragraph 4, the Commission shall recommend approval of the plan of work for exploration to the Council."

4. In considering the proposed plan of work for exploration for polymetallic nodules, the Commission took into account the principles, policies and objectives relating to activities in the Area as provided for in Part XI and annex III of the Convention and in the Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea adopted in 1994 ("the Agreement").

### B. Consideration of the application

5. The Commission considered the application in closed meetings on 10 and 11 July 2013 during the nineteenth session and on 4 and 6 February 2014 during the twentieth session.

6. Prior to commencing a detailed examination of the application, the Commission invited the head of delegation, Tommy Koh, Ambassador-at-large, and the designated representative of the applicant, Ye Kung Ong, Director of OMS, accompanied by Aziz Merchant, Director of OMS, and Charles Morgan, Adviser to OMS, to make a presentation of the application. Members of the Commission then asked questions in order to clarify certain aspects of the application before convening in closed session to examine the application in detail. Following its initial consideration, the Commission also decided to request its Chair to transmit a list of questions to the applicant in writing through the Secretary-General. Responses were received from the applicant; however the Commission did not have sufficient time to complete consideration of the application. It decided to defer consideration of it, to be taken up as a matter of priority at its next meeting in February 2014.

## III. Summary of basic information regarding the application

### A. Identification of the applicant

7. Name of applicant: Ocean Mineral Singapore Pte Ltd. (OMS).

8. Address of applicant:

(a) Street address: 1 Harbour Front Avenue, #18-01 Keppel Bay Tower, Singapore 098632

(b) Postal address: same as above.

(c) Telephone number: +65 6270 6666

(d) Facsimile number: +65 6413 6344

(e) E-mail address: none

9. Designated representative of the applicant:

(a) Name: Ye Kung Ong

(b) Street address: same as above.

(c) Telephone number: same as above.

(d) Facsimile number: same as above.

(e) E-mail address: yekung.ong@kepcorp.com / ee.tan@kepcorp.com

(f) Applicant's place of registration and principal place of business: 1 Harbour Front Avenue, #18-01 Keppel Bay Tower, Singapore 098632.

10. The applicant states that OMS is a subsidiary of Keppel Corporation Limited (KCL) which holds 78.1 per cent of the outstanding share capital of OMS. KCL is managed by, and has a board of directors that includes, Singaporean citizens. Both OMS and KCL are companies incorporated and based in Singapore. A copy of the certificate of incorporation of OMS has been submitted. The applicant stated that it had invited UKSRL to be a minority, non-controlling, shareholder. The Commission noted that any changes in the corporate structure, including shareholding, would be reported to the Secretary-General.

## B. Sponsorship

11. Sponsoring State: Republic of Singapore.

12. The date of deposit of Singapore's instrument of ratification of the Convention and of its consent to be bound by the Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 is 17 November 1994.

13. The date of certificate of sponsorship is 28 February 2013, signed by the Minister for Trade and Industry, Lim Hng Kiang.

14. The certificate of sponsorship states that the applicant is a duly incorporated and registered corporation under the laws of Singapore and, as such, is a national of Singapore and is subject to the effective control of Singapore. The sponsoring State assumes responsibility in accordance with article 139, article 153, paragraph 4, and annex III, article 4, paragraph 4, of the Convention. In a letter dated 19 April 2013 addressed to the Secretary-General and included in the application, the applicant indicated that, in line with the sponsoring State's long-standing commitment to environmental stewardship and safety and the advisory opinion rendered on 1 February 2011 by the Seabed Disputes Chamber of the International Tribunal for

the Law of the Sea, the sponsoring State is planning to develop and enact domestic mining legislation and to regulate OMS based on the domestic legislations, once OMS enters into a contract with the Authority.

### C. Area of application

15. The area under application covers a surface area of 58,280 $km^2$ in the eastern part in the Clarion-Clipperton Zone in the Pacific Ocean. This is the reserved area contributed by UK Seabed Resources Ltd. (UKSRL). The area under application is adjacent to the UKSRL area under exploration contract.

### D. Other information

16. In accordance with regulation 14 of the Regulations, the application includes a written undertaking dated 19 April 2013 and signed by the applicant's designated representative.

17. The applicant has paid a fee of $500,000, in accordance with regulation 19 of the Regulations.

## IV. Examination of information and technical data submitted by the applicant

18. The following technical documents were submitted in the application:

(a) Information relating to the application area:

(i) Boundaries of the area under application by a list of geographic coordinates in accordance with the World Geodetic System 1984 (WGS 84);

(ii) Chart of the area under application.

(b) Information to enable the Council to determine whether the applicant is financially capable of carrying out the proposed plan of work for exploration;

(c) Information to enable the Council to determine whether the applicant is technically capable of carrying out the proposed plan of work for exploration;

(d) Plan of work for exploration;

(e) Training programmes.

## V. Consideration of financial and technical qualifications of the applicant

### A. Financial capacity

19. In evaluating the financial capacity of the applicant, the Commission noted that the applicant provided a certified pro forma balance sheet. The applicant also submitted copies of audited consolidated financial statements of Keppel Corporation

Limited, the applicant's parent company. The applicant further provided a statement to the effect that it had the necessary financial resources to meet the estimated costs of the proposed plan of work for exploration. The statement also indicated that the applicant's parent company would provide funding support, be it direct or indirect, to the applicant for the implementation of the proposed plan of work for exploration for polymetallic nodules.

## B. Technical capacity

20. The Commission was provided with technical information in relation to the capabilities of the parent company, including its offshore and marine capabilities. The applicant also indicated that a key partner would be the Tropical Marine Science Institute of the National University of Singapore which has expertise in biodiversity and environmental research, including environmental impact assessment and monitoring. The applicant would also benefit from the experience in the marketing and risk management of commodities of its minority shareholder, Lion City Capital Partners Pte Ltd., which holds 2 per cent of the applicant's shares. The applicant also stated that it would leverage on the technical competencies of UKSRL, which it had invited to be a minority, non-controlling, shareholder. Given the fact that the area under application and the area under UKSRL exploration contract are adjacent and constitute an ecological and geological continuum, the applicant intends to collaborate with UKSRL for the execution of the proposed plan of work for exploration. Both the applicant and UKSRL see advantages to collaborating on their respective exploration plans of work, such as leveraging the shared data and results, equipment and resources, including through multipurpose cruises, and note that the area under application is the reserved area surrendered by UKSRL. The applicant stated that this was common practice in the oil and gas industry. The Commission noted that the applicant contemplated entering into a management services agreement with UKSRL (or its affiliate) or failing that, entering into a similar exploration services agreement with a third party, to carry out the proposed plan of work for exploration for the area under application. The applicant stated that the commencement of the proposed plan of work was therefore subject to entry into the management services agreement between the applicant and UKSRL (or its affiliate) or failing that, entry into a similar exploration services agreement with a third party.

21. The applicant provided details of environmental baseline studies and survey activities which are the two main activities to be performed in the first five years of the contract. Survey activities would identify potential commercial recovery sites and develop resource estimates for additional areas. The applicant would conduct two survey cruises which were scheduled for 2017 and 2018 to benefit from the findings of earlier survey cruises conducted by UKSRL in its area under exploration contract. The applicant stated that if UKSRL could conduct its survey more efficiently in its area under contract, OMS could result in those cruises being extended into the applicant's area before 2017. The environmental baseline studies would primarily focus on collection of environmental data (e.g., general benthic community characterization, baseline data collection and test monitoring), together with other relevant information for use in conducting seatests of commercial recovery equipment and monitoring the effects of those activities. This would serve in particular to complete a comprehensive environmental impact assessment for

commercial resource recovery, including a programme for monitoring commercial recovery operations. The applicant also stated that such activities would not occur without approval by the sponsoring State and the Authority and without knowledge of the requirements of the future regulations on exploitation by the Authority.

22. The Commission was provided with information relating to the prevention, reduction and control of hazards to and possible impacts on the marine environment. The applicant submitted a preliminary impact assessment of the anticipated activities during the initial five-year period, which involved non-disruptive sensing and the taking of samples in very small quantities.

23. Taking note of the working modalities outlined in the application, the Commission emphasized that each contractor with the Authority was required to report separately on the implementation of its activities under contract.

## VI. Consideration of data and information submitted for approval of the plan of work for exploration for polymetallic nodules

24. In accordance with regulation 18 of the Regulations, the application included the following information for approval of the plan of work for exploration:

(a) A general description and a schedule of the proposed exploration programme of activities to be undertaken in the first five-year period, such as studies to be undertaken in respect of the environmental, technical, economic and other appropriate factors that must be taken into account in exploration;

(b) A description of the programme for oceanographic and environmental baseline studies that would be carried out in accordance with the Regulations and environmental rules, regulations and procedures established by the Authority. Those baseline studies would enable an assessment to be made of the potential environmental impact of the proposed exploration activities, taking into account any recommendations issued by the Legal and Technical Commission;

(c) A preliminary assessment of the possible impact of the proposed exploration activities on the marine environment;

(d) A description of proposed measures for the prevention, reduction and control of pollution and other hazards to, and possible impacts on, the marine environment;

(e) Data necessary for the Council to make the determination it is required to make in accordance with regulation 12, paragraph 1 of the Regulations;

(f) A schedule of anticipated yearly expenditures in respect of the programme of activities for the first five-year period.

## VII. Training programmes

25. In accordance with regulation 27 and section 8 of annex 4 to the Regulations, the applicant provided information regarding an at-sea exploration training programme and an engineering training programme. These training programmes

would be open to at least five nationals of developing States who wish to specialize in engineering, marine biology, oceanography, geophysics and geology. The proposed programmes will be further detailed with the Authority should the applicant be granted a contract. The Commission highlighted that, in developing the training programmes, the applicant and the Secretary-General should ensure that the training programmes are in line with the Recommendations for the guidance of contractors and sponsoring States relating to training programmes under plans of work for exploration, as developed by the Commission during the nineteenth session (ISBA/19/LTC/14).

## VIII. Conclusion and recommendations

26. Having examined the particulars submitted by the applicant, which are summarized in parts II to VII above, the Commission is satisfied that the application has been duly submitted in accordance with the Regulations and that the applicant is a qualified applicant, as defined in articles 4 and 9 of annex III to the Convention, and regulation 17 of the Regulations. The Commission is further satisfied that the applicant:

(a) Has complied with the provisions of the Regulations;

(b) Has given the undertakings and assurances specified in regulation 14 of the Regulations;

(c) Possesses the financial and technical capability to carry out the proposed plan of work for exploration.

27. The Commission is satisfied that none of the conditions in regulation 21, paragraph 6, of the Regulations apply.

28. With respect to the proposed plan of work for exploration, the Commission is satisfied that the proposed plan of work for exploration will:

(a) Provide for effective protection of human health and safety;

(b) Provide for effective protection and preservation of the marine environment;

(c) Ensure that installations are not established where interference may be caused to the use of recognized sea lanes essential to international navigation or in areas of intense fishing activity.

29. Accordingly, pursuant to regulation 21, paragraph 5 of the Regulations, the Commission recommends to the Council approval of the plan of work for exploration for polymetallic nodules submitted by Ocean Mineral Singapore Pte Ltd.

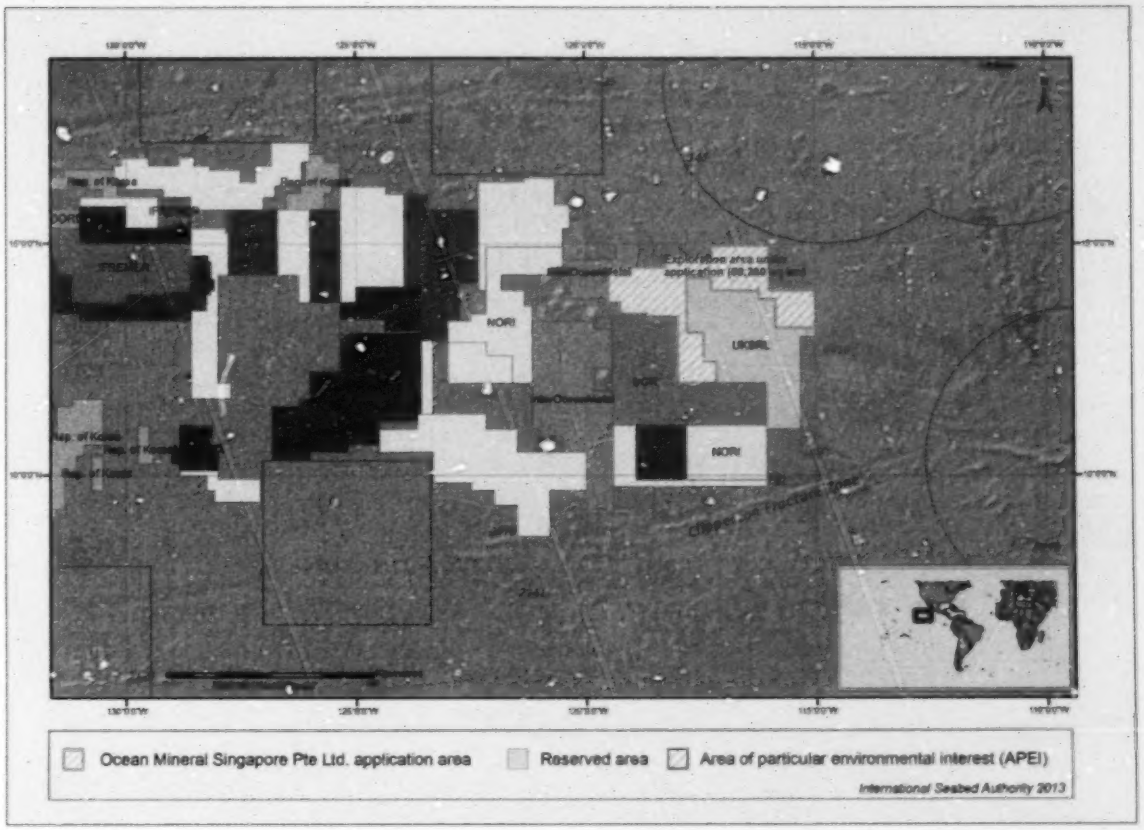
# Annex

## A. List of coordinates of the area under application

(in decimal degrees following the World Geodetic System 1984 geographical projection system)

| *Turning point* | *Latitude (North)* | *Longitude (West)* |
|---|---|---|
| 1 | 12.0000 | 117.1600 |
| 2 | 12.0000 | 118.0000 |
| 3 | 13.4333 | 118.0000 |
| 4 | 13.4333 | 118.6667 |
| 5 | 13.5000 | 118.6667 |
| 6 | 13.5000 | 119.2500 |
| 7 | 13.7500 | 119.2500 |
| 8 | 13.7500 | 119.5000 |
| 9 | 14.5000 | 119.5000 |
| 10 | 14.5000 | 118.2500 |
| 11 | 14.7500 | 118.2500 |
| 12 | 14.7500 | 117.2500 |
| 13 | 14.9667 | 117.2500 |
| 14 | 14.9667 | 116.0000 |
| 15 | 14.0000 | 116.0000 |
| 16 | 14.0000 | 115.0000 |
| 17 | 13.2000 | 115.0000 |
| 18 | 13.2000 | 115.8700 |
| 19 | 13.8200 | 115.8700 |
| 20 | 13.8200 | 116.2400 |
| 21 | 14.0000 | 116.2400 |
| 22 | 14.0000 | 117.2600 |
| 23 | 14.2800 | 117.2600 |
| 24 | 14.2800 | 117.8000 |
| 25 | 13.1000 | 117.8000 |
| 26 | 13.1000 | 117.4400 |
| 27 | 12.4700 | 117.4400 |
| 28 | 12.4700 | 117.1600 |

## B. Map of the general location of the area under application


Ocean Mineral Singapore Pte Ltd. application area
Reserved area
Area of particular environmental interest (APEI)
International Seabed Authority 2013